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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/471,869	12/23/1999	JEFFREY PHILLIPS	E0295/7130-(8044

7590

09/17/2003

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EXAMINER

NGUYEN, CAM LINH T

ART UNIT

PAPER NUMBER

2171

DATE MAILED: 09/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

3

Office Action Summary

Application No.

09/471,869

Applicant(s)

PHILLIPS ET AL.

Examiner

Cam-Linh T. Nguyen

Art Unit

2171

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-8,10-15,17-19,21-24,26-42,44,45,47-51 and 53-58 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

- 5) ☐ Claim(s) _____ is/are allowed.

- 6) ☒ Claim(s) 1,3-8,10-15,17-19,21-24,26-42,44,45,47-51 and 53-58 is/are rejected.

- 7) ☐ Claim(s) _____ is/are objected to.

- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 26 – 27, 30, 37, 53 - 58 are rejected under 35 U.S.C. 102(b) as being anticipated by Mosher, Jr. et al (U.S. 5,799,323).

♦ As per claim 26, 30, 37, 53, 56,

Mosher, Jr. et al (U.S. 5,799,323) discloses a computer system having at least first and second backup storage systems to each store backup data from at least one client (Fig. 2), comprising:

- “Receiving information related to backup activities of the second backup storage system at the first backup storage system” See Fig. 1 and 2. Mosher discloses a primary purpose of the RDF (Remote data facility) to handle backup activities from primary system with remote system (See col.6, line 34 – 38).
 - o The information that being passed between the primary and the remote system is corresponding to “Information related to backup activities” (co. 6 line 59 – 65). This information is also corresponds to a “report” that written to the log maintained by the transaction management facility (See Fig. 1 element 104, col. 6 line 40 – 45, 59 – 65, Mosher).

- "The second backup storage system" corresponds to "the remote backup system" (element 122 in Fig. 1, col. 6 line 47 - 49).
 - "The first backup storage system" corresponds to the "primary computer system" (element 110 in Fig. 1).
 - "A first controller ... to receive information" corresponds to "the Extract Process 130" (See Fig. 1).
- ◇ As per claim 27, 57
- "Transmitting the information related to the backup activities of the second backup storage system... to the first backup storage system" See col. 1 line 42 – 50.
- ◇ As per claim 54 – 55,
- "Determining a lapsing of a time period" See col. 3 line 45 – 48.
 - "Automatically generating the report" See col. 7 line 1 – 3.
- ◇ As per claim 58,
- "The first backup storage system identifies the second backup storage system" See col. 10 lines 3 – 6.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1, 3 – 8, 10, 12 – 15, 17 – 19, 21 – 24, 28 – 29, 31 – 36, 38 – 42, 44 – 45, 47 – 51, are rejected under 35 U.S.C. 103(a) as being unpatentable over Mosher, Jr. et al (U.S. 5,799,323) in view of Kobayashi et al (U.S. 6,148,415).

◇ As per claim 1, 7, 12, 17, 22, 40, 44, 49,

Mosher, Jr. et al (U.S. 5,799,323) discloses a computer system comprising:

- "A plurality of backup storage systems" See Fig. 2, Mosher.
- "The first backup storage system" corresponds to the "primary computer system" (element 110 in Fig. 1).
- "The second backup storage system" corresponds to "the remote backup system" (element 122 in Fig. 1, col. 6 line 47 – 49, Mosher).
- "At least one user interface, coupled to at least the first and second backup storage systems" See Fig. 2 element 140, Mosher.

Art Unit: 2171

- Mosher teaches a system having a plurality of RDF systems (col.4 line 55 – 67, Mosher). Clearly, Mosher suggests using “a third backup storage system to store backup data from at least one client”.

Mosher fails to teach about the “domain that includes at least the first and second backup storage systems and excludes the third backup storage system”.

However, Kobayashi, on the other hand, discloses a plurality of backup machines (See Fig. 2 of Kobayashi), where each operating machine is connected with their respective backup machine by a signed address (See col. 5 line 40 – 49, Kobayashi). Each backup machine only received the corresponding information from their operating machine. Clearly, Kobayashi teaches using a domain in backup operations.

It would have been obvious to one with ordinary skill in the art at the time the invention was made to apply the teaching of Kobayashi into the system of Mosher, because the teaching about the domain provides high benefits in access control between users and their backup system. In addition, it also provides fast access to the backup system by the address, and reduces the searching time for searching a respective backup system to backup data.

◇ As per claim 28 - 29, 31 – 32, 38 – 39, 8, 10, 13 – 15, 18 – 19, 21, 23 – 24, 41 – 42, 45, 47 – 48, 50 – 51,

Mosher teaches a system having a plurality of RDF systems (col.4 line 55 – 67, Mosher). Clearly, Mosher suggests using “a third backup storage system to store backup data from at least one client”.

Mosher fails to teach about the “domain that includes at least the first and second backup storage systems and excludes the third backup storage system”.

However, Kobayashi, on the other hand, discloses a plurality of backup machines (See Fig. 2 of Kobayashi), where each operating machine is connected with their respective backup machine by a signed address (See col. 5 line 40 – 49, Kobayashi). Each backup machine only received the corresponding information from their operating machine. Clearly, Kobayashi teaches about using a domain in backup operations.

It would have been obvious to one with ordinary skill in the art at the time the invention was made to apply the teaching of Kobayashi into the system of Mosher, because the teaching about the domain provides high benefits in access control between users and their backup system. In addition, it also provides fast access to the backup system by the address, and reduces the searching time for searching a respective backup system to backup data.

◇ As per claim 33 – 36, 3 – 6,

Since applying the teaching of Kobayashi into the system of Mosher, clearly, the combination teaches about an identifier to identify the user in the operating machine that have authorization access to the backup system.

“A second controller” corresponds to the “Receiver Process 132” (see Fig. 1 of Mosher).

Allowable Subject Matter

6. Claim 11 is allowed.

7. The following is a statement of reasons for the indication of allowable subject matter: In independent claim 11, the limitation of allowing user to select via the interface a report on information related to backup activities, taken with the other limitations of the claim, were not disclosed by, would not have been obvious over, nor otherwise fairly disclosed by the prior art of record.

Response to Arguments

8. Applicant's arguments with respect to claims 1, 3 – 8, 10 – 15, 17 – 24, 26 – 42, 44 – 45, 47 – 51, 53 - 56 have been considered but are moot in view of the new ground(s) of rejection.

9. Applicant's arguments filed 07/30/2003 have been fully considered but they are not persuasive.

- As per claims 26 – 29,

Applicant argues that Mosher does not disclose about receiving information related to backup activities of a second backup storage system at a first backup storage system. Examiner disagreed.

Referring to Fig. 2. The local primary computer 110 includes a local backup computer system 160. This computer 160 corresponds to a first backup storage system.

The remote computer system 122 also includes a remote backup computer system 162. This computer 162 corresponds to a second backup storage system.

The information that pass between the local and the remote computer system regarding about the backup transaction are corresponds to the "backup activities".

- As per claims 30 – 39,

As discussed above in connection with claim 26, Mosher clearly discloses a first and second backup storage system that receives information related to backup activities.

- As per claims 53 – 55,

Applicant argues that Mosher does not disclose or suggest determining an occurrence of an event upon which a report of ...backup activities ... to be generated. Examiner disagreed.

Referring to col. 6 lines 59 – 65, Mosher teaches that the RDF Extractor will read the log files and send the records, which affect the audited files to the backup system. The RDF Extractor is programmed to process automatically (col. 7 lines 1 – 3). Therefore, if the transaction is a backup transaction, the records associated with it are the reports of the transaction or the event.

- As per claims 56,

Applicant argues that Mosher reference fails to disclose a method comprising an act of when a work item is backup more than once in a given time period ... providing only a status of most recent backup of the work item. Examiner disagreed.

Each audit record includes a timestamp as disclosed in col. 7 line 8 – 17, col. 11 line 50 – 62, col. 13 lines 1 – 16, clearly, the timestamp is checked to determine the status of transaction when a backup transaction is performed.

- As per claims 1, 3 - 6, 7 – 10, 12 – 15, 17 – 19, 21 – 24, 40 – 42, 44 – 45, 47 – 51,

Applicant argues that Mosher fails to disclose a user interface that couple between first and second backup system. Examiner disagreed.

Referring to Fig. 2, the RDF monitor process is an interface between local and remote backup system.

Applicant argues that Mosher fails to disclose a domain of backup systems. Examiner disagreed.

Referring to Fig. 3, col.9 lines 40 – col. 10 lines 13, Mosher teaches that the files in the primary system are associated with a RDF system, and the record also identifying the CPUs on which that process and its backup runs. Clearly, this is referring to a domain for the backup system.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 2171

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cam-Linh T. Nguyen whose telephone number is 703-305- 1951. The examiner can normally be reached on Monday - Friday from 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic, can be reached on (703) 308- 1436. The fax phone number for the organization where this application or proceeding is assigned is 703- 746- 7239.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703- 305- 3900.

Cam-Linh Nguyen
Art Unit 2171

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